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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke  
Probation Against,

Case No. 2013-164

13 **R. STEPHEN ELKINS**  
14 **8806 Cellar Way**  
**Windsor, CA 95492**  
15 **Registered Nurse License No. 541004**

**PETITION TO REVOKE PROBATION**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Petition to Revoke  
20 Probation solely in her official capacity as the Executive Officer of the Board of Registered  
21 Nursing, Department of Consumer Affairs.

22 2. On or about February 27, 1998, the Board of Registered Nursing issued Registered  
23 Nurse License Number 541004 to R. Stephen Elkins ("Respondent"). The Registered Nurse  
24 License was in effect at all times relevant to the charges brought herein and will expire on August  
25 31, 2013, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against: R. Stephen  
27 Elkins," Case No. 2013-164, the Board of Registered Nursing, issued a decision, effective  
28 April 4, 2013, in which Respondent's Registered Nurse License was revoked. However, the

1 revocation was stayed and Respondent's Registered Nurse License was placed on probation for a  
2 period of three (3) years with certain terms and conditions. A copy of that decision is attached as  
3 Exhibit A and is incorporated by reference.

#### 4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing  
6 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All  
7 section references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 118, subdivision (b), of the Code provides that the  
9 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of  
10 jurisdiction to proceed with a disciplinary action during the period within which the license may  
11 be renewed, restored, reissued or reinstated.

#### 12 FIRST CAUSE TO REVOKE PROBATION

##### 13 **(Failure to Fully Comply with Conditions of Probation)**

14 6. At all times after the effective date of Respondent's probation, Condition 2 stated in  
15 pertinent part:

16 **"Comply with the Board's Probation Program.** Respondent shall fully comply with the  
17 conditions of the Probation Program established by the Board and cooperate with representatives  
18 of the Board in its monitoring and investigation of the Respondent's compliance with the Board's  
19 Probation Program . . . ."

20 7. Respondent's probation is subject to revocation because he failed to comply with  
21 Probation Conditions 3, 7 and 8, as set forth below.

#### 22 SECOND CAUSE TO REVOKE PROBATION

##### 23 **(Failure to Comply With Probation Condition 3: Report in Person)**

24 8. At all times after the effective date of Respondent's probation, Condition 3 stated:

25 **"Report in Person.** Respondent, during the period of probation, shall appear in person at  
26 interviews/meetings as directed by the Board or its designated representatives."

27 9. Respondent's probation is subject to revocation as he failed to comply with Probation  
28 Condition 3, in that he failed to report for a mandatory orientation meeting on April 5, 2013,

1 which was rescheduled to April 10, 2013. Respondent failed to attend that meeting. He was  
2 contacted by the Board and the orientation meeting was again rescheduled to take place on April  
3 17, 2013. Respondent reported for the orientation meeting on April 17, 2013, but due to his  
4 combative and uncooperative behavior the meeting was terminated.

5 THIRD CAUSE TO REVOKE PROBATION

6 (Failure to Comply with Probation Condition 7: Employment Approval  
7 and Reporting Requirements)

8 10. At all times after the effective date of Respondent's probation, Condition 7 stated:

9 "Employment Approval and Reporting Requirements. Respondent shall obtain prior  
10 approval from the Board before commencing or continuing any employment, paid or voluntary,  
11 as a registered nurse . . . ."

12 11. Respondent's probation is subject to revocation because he failed to comply with  
13 Probation Condition 7, in that on April 5, 2013, he advised his probation monitor that he was  
14 working as a registered nurse at St. Helena Hospital, St. Helena, California, without having  
15 obtained employment approval from the Board.

16 FOURTH CAUSE TO REVOKE PROBATION

17 (Failure to Comply with Probation Condition 8: Supervision )

18 12. At all times after the effective date of Respondent's probation, Condition 8 stated:

19 "Supervision. Respondent shall obtain prior approval from the Board regarding  
20 Respondent's level of supervision and/or collaboration before commencing or continuing any  
21 employment as a registered nurse, or education and training that includes patient care . . . ."

22 13. Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition 8, in that on or before April 5, 2013, he was employed as a registered nurse  
24 at St. Helena Hospital, St. Helena, California, without having obtained approval from the Board  
25 regarding his level of supervision.

26 PRAYER


27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1           1.     Revoking the probation that was granted by the Board of Registered Nursing in Case  
2     No. 2013-164 and imposing the disciplinary order that was stayed thereby revoking Registered  
3     Nurse License No. 541004 issued to R. Stephen Elkins;

4           2.     Revoking or suspending Registered Nurse License No. 541004, issued to R. Stephen  
5     Elkins;

6           3.     Taking such other and further action as deemed necessary and proper.

7     DATED: May 16, 2013

8                                 *for*   
9                                 LOUISE R. BAILEY, M.ED., RN  
10                                Executive Officer  
11                                Board of Registered Nursing  
12                                Department of Consumer Affairs  
13                                State of California  
14                                Complainant

12     SF2013404557  
13     40699510.doc

# **Exhibit A**

**Decision and Order**

**Board of Registered Nursing Case No. 2013-164**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

R. STEPHEN ELKINS  
a.k.a. R. STEVEN ELKINS  
8806 Cellar Way  
Windsor, CA 95492

Registered Nurse License No. 541004

Respondent

Case No. 2013-164

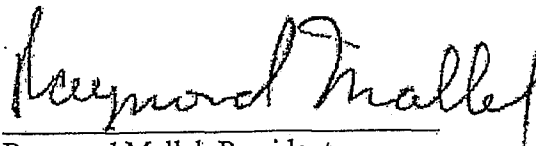
OAH No. 2012090751

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 4, 2013.

IT IS SO ORDERED March 5, 2013.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **R. STEPHEN ELKINS**  
14 **AKA R. STEVEN ELKINS**  
8806 Cellar Way  
Windsor, CA 95492  
15 Registered Nurse License No. 541004

16 Respondent.

Case No. 2013-164

OAH No. 2012090751

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board  
21 of Registered Nursing. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Judith J. Loach,  
23 Deputy Attorney General.

24 2. Respondent R. Stephen Elkins, aka R. Steven Elkins ("Respondent") is represented in  
25 this proceeding by attorney Steven Kesten, Esq., whose address is: Law Offices of Steven Kesten,  
26 400 Redhill Avenue, San Anselmo, CA 94960.

27 3. On or about February 27, 1998, the Board of Registered Nursing issued Registered  
28 Nurse License No. 541004 to Respondent. The Registered Nurse License was in full-force and

1 effect at all times relevant to the charges brought in Accusation No. 2013-164 and will expire on  
2 August 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2013-164 was filed before the Board of Registered Nursing  
5 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The  
6 Accusation and all other statutorily required documents were properly served on Respondent on  
7 September 5, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2013-164 is attached as Exhibit A and incorporated herein  
9 by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 2013-164. Respondent has also carefully read, fully  
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
19 the attendance of witnesses and the production of documents; the right to reconsideration and  
20 court review of an adverse decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. 2013-164.

27 10. Respondent agrees that his Registered Nurse License is subject to discipline and he  
28 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.



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1       **Severability Clause.** Each condition of probation contained herein is a separate and  
2 distinct condition. If any condition of this Order, or any application thereof, is declared  
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
5 and enforceable to the fullest extent permitted by law.

6       1.   **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
7 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
8 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
9 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
10 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
11 application process.

12       **Criminal Court Orders:** If Respondent is under criminal court orders, including  
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15       2.   **Comply with the Board's Probation Program.** Respondent shall fully comply with  
16 the conditions of the Probation Program established by the Board and cooperate with  
17 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
18 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
19 more than 15 days of any address change and shall at all times maintain an active, current license  
20 status with the Board, including during any period of suspension.

21       Upon successful completion of probation, Respondent's license shall be fully restored.

22       3.   **Report in Person.** Respondent, during the period of probation, shall appear in  
23 person at interviews/meetings as directed by the Board or its designated representatives.

24       4.   **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
25 practice as a registered nurse outside of California shall not apply toward a reduction of this  
26 probation time period. Respondent's probation is tolled, if and when he resides outside of  
27 California. Respondent must provide written notice to the Board within 15 days of any change of  
28 residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Respondent shall provide a list of all states and territories where he has ever been licensed  
3 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
4 information regarding the status of each license and any changes in such license status during the  
5 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
6 license during the term of probation.

7 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit  
8 or cause to be submitted such written reports/declarations and verification of actions under  
9 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
10 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
11 Respondent shall immediately execute all release of information forms as may be required by the  
12 Board or its representatives.

13 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
14 state and territory in which he has a registered nurse license.

15 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall  
16 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
17 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered nursing"  
19 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
20 non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice nursing  
22 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

23 If Respondent has not complied with this condition during the probationary term, and  
24 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
25 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
26 extension of Respondent's probation period up to one year without further hearing in order to  
27 comply with this condition. During the one year extension, all original conditions of probation  
28 shall apply.

1       7.   **Employment Approval and Reporting Requirements.** Respondent shall obtain  
2 prior approval from the Board before commencing or continuing any employment, paid or  
3 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6       Respondent shall provide a copy of this Decision to his employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8       In addition to the above, Respondent shall notify the Board in writing within seventy-two  
9 (72) hours after he obtains any nursing or other health care related employment. Respondent  
10 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
11 regardless of cause, from any nursing, or other health care related employment with a full  
12 explanation of the circumstances surrounding the termination or separation.

13       8.   **Supervision.** Respondent shall obtain prior approval from the Board regarding  
14 Respondent's level of supervision and/or collaboration before commencing or continuing any  
15 employment as a registered nurse, or education and training that includes patient care.

16       Respondent shall practice only under the direct supervision of a registered nurse in good  
17 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
18 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
19 approved.

20       Respondent's level of supervision and/or collaboration may include, but is not limited to the  
21 following:

22       (a)   Maximum - The individual providing supervision and/or collaboration is present in  
23 the patient care area or in any other work setting at all times.

24       (b)   Moderate - The individual providing supervision and/or collaboration is in the patient  
25 care unit or in any other work setting at least half the hours Respondent works.

26       (c)   Minimum - The individual providing supervision and/or collaboration has person-to-  
27 person communication with Respondent at least twice during each shift worked.

28       (d)   Home Health Care - If Respondent is approved to work in the home health care

1 setting, the individual providing supervision and/or collaboration shall have person-to-person  
2 communication with Respondent as required by the Board each work day. Respondent shall  
3 maintain telephone or other telecommunication contact with the individual providing supervision  
4 and/or collaboration as required by the Board during each work day. The individual providing  
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
6 patients' homes visited by Respondent with or without Respondent present.

7       **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
8 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
9 or for an in-house nursing pool.

10       Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
11 registered nursing supervision and other protections for home visits have been approved by the  
12 Board. Respondent shall not work in any other registered nursing occupation where home visits  
13 are required.

14       Respondent shall not work in any health care setting as a supervisor of registered nurses.  
15 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
16 and/or unlicensed assistive personnel on a case-by-case basis.

17       Respondent shall not work as a faculty member in an approved school of nursing or as an  
18 instructor in a Board approved continuing education program.

19       Respondent shall work only on a regularly assigned, identified and predetermined  
20 worksite(s) and shall not work in a float capacity.

21       If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
22 request documentation to determine whether there should be restrictions on the hours of work.

23       **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and  
24 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
25 months prior to the end of his probationary term.

26       Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
27 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
28 above required course(s). The Board shall return the original documents to Respondent after

1 photocopying them for its records.

2       **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its  
3 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
4 amount of \$5,225.00. Respondent shall be permitted to pay these costs in a payment plan  
5 approved by the Board, with payments to be completed no later than three months prior to the end  
6 of the probation term.

7       If Respondent has not complied with this condition during the probationary term, and  
8 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
9 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
10 extension of Respondent's probation period up to one year without further hearing in order to  
11 comply with this condition. During the one year extension, all original conditions of probation  
12 will apply.

13       **12. Violation of Probation.** If Respondent violates the conditions of his probation, the  
14 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
15 and impose the stayed discipline (revocation/suspension) of Respondent's license.

16       If during the period of probation, an accusation or petition to revoke probation has been  
17 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
18 an accusation or petition to revoke probation against Respondent's license, the probationary  
19 period shall automatically be extended and shall not expire until the accusation or petition has  
20 been acted upon by the Board.

21       **13. License Surrender.** During Respondent's term of probation, if he ceases practicing  
22 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
23 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
24 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
25 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
26 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
27 subject to the conditions of probation.

28       Surrender of Respondent's license shall be considered a disciplinary action and shall

1 become a part of Respondent's license history with the Board. A registered nurse whose license  
2 has been surrendered may petition the Board for reinstatement no sooner than the following  
3 minimum periods from the effective date of the disciplinary decision:

4 (1) Two years for reinstatement of a license that was surrendered for any reason other  
5 than a mental or physical illness; or

6 (2) One year for a license surrendered for a mental or physical illness.

7 14. **Mental Health Examination.** The respondent shall, within 45 days of the effective  
8 date of this decision, have a mental health examination including psychological testing as  
9 appropriate to determine his capability to perform the duties of a registered nurse. The  
10 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
11 practitioner licensed by the Board. The examining mental health practitioner will submit a  
12 written report of that assessment and recommendations to the Board. All costs are the  
13 responsibility of the respondent. Recommendations for treatment, therapy or counseling made as  
14 a result of the mental health examination will be instituted and followed by the respondent.

15 If respondent is determined to be unable to practice safely as a registered nurse, the  
16 licensed mental health care practitioner making this determination shall immediately notify the  
17 Board and respondent by telephone, and the Board shall request that the Attorney General's office  
18 prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
19 practice and may not resume practice until notified by the Board. During this period of  
20 suspension respondent shall not engage in any practice for which a license issued by the Board is  
21 required, until the Board has notified respondent that a mental health determination permits  
22 respondent to resume practice. This period of suspension will not apply to the reduction of this  
23 probationary time period.

24 If the respondent fails to have the above assessment submitted to the Board within the  
25 45-day requirement, respondent shall immediately cease practice and shall not resume practice  
26 until notified by the Board. The period of suspension will not apply to the reduction of this  
27 probationary time period. The Board may waive or postpone this suspension only if significant,  
28 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

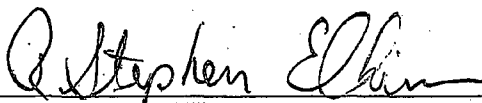
1 by the respondent to obtain the assessment, and a specific date for compliance must be provided.  
2 Only one such waiver or extension may be permitted.

3 15. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in  
4 an on-going counseling program until such time as the Board releases him from this requirement  
5 and only upon the recommendation of the counselor. Written progress reports from the counselor  
6 will be required at various intervals.

7 ACCEPTANCE


8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
9 discussed it with my attorney, Steven Kesten, Esq. I understand the stipulation and the effect it  
10 will have on my Registered Nurse License. I enter into this Stipulated Settlement and  
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
12 Decision and Order of the Board of Registered Nursing.

13  
14 DATED: 11/20/2012

  
STEPHEN ELKINS  
Respondent

16 I have read and fully discussed with Respondent Stephen Elkins the terms and conditions  
17 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
18 its form and content.

19  
20 DATED: 11/20/12

  
Steven Kesten, Esq.  
Attorney for Respondent

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23 ///

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25 ///

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28




ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11-26-2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

  
JUDITH J. LOACH  
Deputy Attorney General  
*Attorneys for Complainant*

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## **Exhibit A**

**Accusation No. 2013-164**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
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13 **R. STEPHEN ELKINS**  
14 **AKA R. STEVEN ELKINS**  
8806 Cellar Way  
Windsor, CA 95492

**ACCUSATION**

15 **Registered Nurse License No. 541004**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about February 27, 1998, the Board of Registered Nursing issued Registered  
23 Nurse License Number 541004 to R. Stephen Elkins, aka R. Steven Elkins ("Respondent"). The  
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
28

1 Department of Consumer Affairs, under the authority of the following laws. All section  
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
4 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
6 Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
9 licensee or to render a decision imposing discipline on the license.

10 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
11 surrender and/or cancellation of a license shall not deprive the Board of jurisdiction to proceed  
12 with a disciplinary action during the period within which the license may be renewed, restored,  
13 reissued or reinstated.

#### 14 DISCIPLINARY STATUTES AND REGULATIONS

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an  
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
20 functions.

21 "..."

22 8. California Code of Regulations, title 16, section 1442, states:

23 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
24 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
25 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
26 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
27 situation which the nurse knew, or should have known, could have jeopardized the client's health  
28 or life."





1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence – Administration of Dangerous Substance Without a Physician Order)

3 20. Respondent is subject to disciplinary action for gross negligence under Code section  
4 2761, subdivision (a)(1), and 2762, subdivision (a), in that he administered the dangerous  
5 medication Dopamine to Patient A, without a physician order. The facts in support of this cause  
6 for discipline are set forth above in paragraphs 16 and 17.

7 SECOND CAUSE FOR DISCIPLINE

8 (Gross Negligence – Falsified Documentation Regarding Physician Order)

9 21. Respondent is subject to disciplinary action for gross negligence under Code section  
10 2761, subdivision (a)(1), 2762, subdivision (e), in that he wrote a verbal order for administration  
11 of Dopamine on behalf of Patient A's physician, when no such order had been authorized. The  
12 facts in support of this cause for discipline are set forth above in paragraphs 16 and 17.

13 THIRD CAUSE FOR DISCIPLINE

14 (Gross Negligence – Failure to Properly Document Administration of Dopamine)

15 22. Respondent is subject to disciplinary action for gross negligence under Code section  
16 2761, subdivision (a)(1), 2762, subdivision (e), in that he failed to document either on Patient A's  
17 flow sheet and/or medication administration record that he had administered Dopamine. The  
18 facts in support of this cause for discipline are set forth above in paragraphs 16 and 17.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Gross Negligence – Failure to Perform Timely Assessments of Patient A's Vital Signs)

21 23. Respondent is subject to disciplinary action for gross negligence under Code section  
22 2761, subdivision (a)(1), in that while Patient A's condition was deteriorating, he failed to record  
23 vital signs more frequently than every hour. The facts in support of this cause for discipline are  
24 set forth above in paragraph 18.

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28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 541004, issued to R. Stephen Elkins, aka R. Steven Elkins;

2. Ordering R. Stephen Elkins, aka R. Steven Elkins to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

September 5, 2012

*for* LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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